

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DON EDWARD AYERS and GLENDA AYERS,
PATRICIA ANN BANKS,
TONY BARNETT as the Proposed Executor for the Estate of
JEANNIE T. BARNETT,
JIMMY WAYNE BEARDEN and PATRICIA BEARDEN,
BETTYE JOYCE BELLETON and LARRY BELLETON,
DEBORAH BESTER,
ED BOYD JR. and MARY BOYD,
SHIRLEY MAE BOYKIN and HOWARD BOYKIN,
ROSIE MAE BRACKETT,
ESTELLA J. BROWN,
FRANKLIN G. BRYANT and JANIE BRYANT,
LEON BURNS and DOROTHY BURNS,
ELIZABETH CARR,
FRANKIE CHEFFEN and JIMMY CHEFFEN,
GENE M. CHINGOLANI,
LORETTA CLEGG and TREY CLEGG,
EVIE CODY and ELFORD CODY,
GENEVA B. COFFMAN,
MARGARET R. COLEMAN as the Administratrix for the
Estate of WELTON COLEMAN and MARGARET R.
COLEMAN as the Proposed Executrix for the Estate of
PEGGY COLEMAN,
CORA MAXINE COLLINS,
DOROTHY J. CORNICE,
SUSIE BERNICE CRAIG,
BETTY DAVENPORT,
MARJORIE P. DAVIS and JAMES DAVIS,
WILLIE DAVIS,
GEARLDINE SADLER DILWORTH,
RICHARD DONALD,
IVA MAE DUNN,
ANNA M. EASON,
ERNEST EDWARDS, as Proposed Administrator for the Estate of
EMMA LEE EDWARDS and ERNEST EDWARDS, Individually,
JUDITH C. EIFERT,
ARDELL EPPERSON and BETTY EPPERSON,
HENRY EPPERSON and DOROTHY EPPERSON,
WILLIE N. FLOWERS JR. and UNICE FLOWERS,
JAMES FLOWERS,
AL JEWELL FORT,
RICHARD L FOSTER and TERRY FOSTER,
ALMA MARIE FOWLER and DAVID FOWLER,
JAMES FRASURE SR. as the Administrator for the Estate of
NORMA FRASURE and JAMES FRASURE SR., Individually,
JOHNNY K. GARNER and DEBBIE GARNER,
BEATRICE S. GILL and ELBERT GILL,
DON GREEN and ROBIN GREEN,
ANNICK Y. MALVIN as the Administratrix for the Estate of

**SECOND
AMENDED VERIFIED
COMPLAINT**

Docket No.: 01CIV3905

JURY TRIAL DEMANDED

JUDGE WEINSTEIN

SANDRA JEAN GREEN,
ORANGE GREENLAW,
MAE HAMMONDS and EARL HAMMONDS,
MARVA HARPER as Administratrix for the Estate of MARY
FRANCES HARPER,
JOHN OBERY HART SR.,
JOHN WILLIAM HAYES and MARGARET HAYES,
GRACIE HERRON as the Administratrix for the Estate of
RUSSELL FRANKLIN HERRON,
LARRY C. HICKS and ROSIE HICKS,
JAMES R. HOPKINS and KIMBERLY HOPKINS,
THOMAS GREEN as the Proposed Executor for the Estate of
REBECCA BRIGANCE HUGHES,
MILDRED MARIE JACKSON,
BETTYE W. JEFFERIES and EMMETT JEFFRIES,
CHARLES CURTIS JENKINS and DOROTHY JENKINS,
JARRELL DEWAYNE JOHNSON and AUDREY JOHNSON,
JEANETTE LEE JOHNSON and DAVID JOHNSON,
JOE HENRY JOHNSON and MARSHEL JOHNSON,
MARY N. JOHNSON,
RUBY RUTH JOHNSON and JOHN JOHNSON,
BETTY JEAN JONES and ISAAC JONES,
HERMAN L. JONES and MARY JONES,
IDA MARY JONES,
JIMMY JONES,
MERCEREE H. JONES,
NORMA JEAN JONES and D.E. JONES,
TOMMY JONES,
DEBORAH ANN JOWERS,
CALVIN WAYNE KINNAIRD and LINDA KINNAIRD,
PEARL KNIGHT,
ANNIE MARIE LACY and ERVIN LACY,
JANICE MARIE LEDBETTER,
ELSIE MAE LEE,
B.L. LITTLE and LOUBERTHA LITTLE,
MARY PERRY LOVELACE and BOBBY LOVELACE,
VILETTA ELIZABETH MALLORY,
CHYANNE GREEN MARBLE,
BENJAMIN MARTIN and ERNESTINE MARTIN,
EARNESTINE B. MARTIN and LARRY MARTIN,
WILLARD A. SPARKS JR. and NINA SPARKS,
LARRY ROGER SPARKS,
THOMAS J. STATON,
JAMES G. STEPHENSON and GUSSIE STEPHENSON,
JAMES ALLEN STURMAN,
MARYLYN R. SUMMONS,
OLLIE ELWANDA TAYLOR,
RICHARD LEE THOMPSON and JANE THOMPSON,
SAMMY DON TILLEY,
DOROTHY L. TODD and DAVID TODD,
LEE ROY TODD and NELSCLINE TODD,
MELVIN L. TURNER and JODY TURNER,

PATSY RUTH WALKER,
DIANNE WALLS,
CELESTIAL B. WEST,
LUCILLE F. WILLIAM and CLESTER WILLIAMS,
EARNESTINE WILLIAMS,
ROSIE LEE WILLIAMS and TOMMY WILLIAMS,
MARICE WILSON as the Administratrix for the Estate of
BILLY RAY WILSON and MARICE WILSON, Individually,
WALTER P. WIMMER and MARIE WIMMER,
FRANCES YARBROUGH and MALACHI YARBROUGH,

Plaintiff(s),

-against-

A.C. and S., INC. (ARMSTRONG CONTRACTING &
SUPPLY),
A.P. GREEN INDUSTRIES, INC. f/k/a A.P. GREEN
REFRACTORIES COMPANY,
A.P. GREEN SERVICES, INC., successor to BIGELOW, f/d/b
LIPTAK,
A.W. CHESTERTON COMPANY,
AMCHEM PRODUCTS, INC., n/k/a RHONE POULENC AG
COMPANY,
n/k/a BAYER CROPSCIENCE INC,
AMERICAN OPTICAL CORPORATION,
AMERICAN STANDARD, INC.,
ANCHOR PACKING COMPANY,
BMCE INC., f/k/a UNITED CENTRIFUGAL PUMP,
BURNHAM, LLC as successor to BURNHAM CORPORATION,
CERTAIN TEED CORPORATION,
CLEAVER BROOKS COMPANY, INC.,
CONGOLEUM CORPORATION,
CRANE CO.,
DANA CORPORATION,
DB RILEY, INC.,
DRESSER INDUSTRIES, INC.,
DURABLA MANUFACTURING COMPANY,
FOSTER WHEELER, L.L.C.,
FULTON BOILER WORKS, INC.,
GARLOCK SEALING TECHNOLOGIES LLC,
f/k/a GARLOCK INC.,
GASKET HOLDINGS, INC., f/k/a FLEXITALLIC, INC.,
GENERAL ELECTRIC COMPANY,
GIBRALTAR INDUSTRIAL SERVICES, INC.,
GOODYEAR CANADA, INC.,
GOODYEAR TIRE AND RUBBER COMPANY,
GOULDS PUMPS, INC.,
H.B. FULLER COMPANY,
HARBISON-WALKER REFRACTORIES COMPANY,
I.U. NORTH AMERICA, INC.,

INGERSOLL-RAND COMPANY,
J.H. FRANCE REFRACTORIES COMPANY,
KAISER ALUMINUM & CHEMICAL CORPORATION,
KEELER-DORR-OLIVER BOILER COMPANY,
KENTILE FLOORS, INC.,
KOHLER CO.,
LOCKHEED MARTIN CORP.,
 as successor in interest to MARTIN
 MARIETTA CORP.,
 as successor in interest to AMERICAN MARIETTA
 CORP.,
MINNESOTA MINING & MANUFACTURING COMPANY,
MORSE DIESEL, INC.,
NATIONAL SERVICE INDUSTRIES, INC.,
NORTH AMERICAN REFRACTORIES COMPANY (NARCO),
NOSROC CORP.,
OAKFABCO, INC.,
OWENS-ILLINOIS, INC.,
PATTERSON KELLY DIVISION,
PATTERSON PUMP COMPANY,
PEERLESS HEATER CO., INC.,
PFIZER, INC. (PFIZER),
PLIBRICO COMPANY,
PORTER HAYDEN COMPANY,
PROKO INDUSTRIES, INC.,
QUIGLEY COMPANY, INC.,
RAPID-AMERICAN CORPORATION,
REYNOLDS METALS COMPANY,
 as successor in interest to
 ATLANTIC ASBESTOS CORP.,
SEQUOIA VENTURES, INC.,
 f/k/a BECHTEL CORPORATION,
T&N PLC,
THE OKONITE COMPANY, INC.,
U.S. RUBBER COMPANY (UNIROYAL),
UNION CARBIDE CORPORATION,
UNITED STATES GYPSUM COMPANY,
UNITED STATES MINERAL PRODUCTS COMPANY,
VIACOM INC.,
 as successor by merger to CBS CORPORATION
 f/k/a WESTINGHOUSE ELECTRIC CORPORATION,
WEIL-MCLAIN,
 a division of THE MARLEY COMPANY,
WORTHINGTON CORPORATION,

Defendants

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Plaintiff(s) by their attorney(s) WEITZ & LUXENBERG, P.C., upon information and belief, at all times hereinafter mentioned allege as follows:

1. Plaintiff(s), DON EDWARD AYERS and GLENDA AYERS, is a resident and citizen of the State of Arkansas; PATRICIA ANN BANKS, is a resident and citizen of the State of Arkansas; Tony Barnett as the Proposed Executor for the Estate of Jeannie Barnett, is a resident and citizen of the State of Arkansas; JIMMY WAYNE BEARDEN and PATRICIA BEARDEN, is a resident and citizen of the State of Arkansas; BETTYE JOYCE BELLETON and LARRY BELLETON, is a resident and citizen of the State of Arkansas; DEBORAH BESTER, is a resident and citizen of the State of Arkansas; ED BOYD JR. and MARY BOYD, is a resident and citizen of the State of Arkansas; SHIRLEY MAE BOYKIN and HOWARD BOYKIN, is a resident and citizen of the State of Arkansas; ROSIE MAE BRACKETT, is a resident and citizen of the State of Michigan; ESTELLA J. BROWN, is a resident and citizen of the State of Arkansas; FRANKLIN G. BRYANT and JANIE BRYANT, is a resident and citizen of the State of Arkansas; LEON BURNS and DOROTHY BURNS, is a resident and citizen of the State of Michigan; ELIZABETH CARR, is a resident and citizen of the State of Arkansas; FRANKIE CHEFFEN and JIMMY CHEFFEN, is a resident and citizen of the State of Arkansas; GENE M. CHINGOLANI, is a resident and citizen of the State of Louisiana; LORETTA CLEGG and TREY CLEGG, is a resident and citizen of the State of Arkansas; EVIE CODY and ELFORD CODY, is a resident and citizen of the State of Arkansas; GENEVA B. COFFMAN, is a resident and citizen of the State of Arkansas; MARGARET R. COLEMAN as the Administratrix for the Estate of WELTON COLEMAN and MARGARET R. COLEMAN as the Proposed Executrix for the Estate of PEGGY COLEMAN, is a resident and citizen of the State of Arkansas; CORA MAXINE COLLINS, is a resident and citizen of the State of Arkansas; DOROTHY J. CORNICE, is a resident and citizen of the State of Arkansas;

SUSIE BERNICE CRAIG, is a resident and citizen of the State of Arkansas; BETTY DAVENPORT, is a resident and citizen of the State of Arkansas; MARJORIE P. DAVIS and JAMES DAVIS, is a resident and citizen of the State of Arkansas; WILLIE DAVIS, is a resident and citizen of the State of Arkansas; GEARLDINE SADLER DILWORTH, is a resident and citizen of the State of Arkansas; RICHARD DONALD, is a resident and citizen of the State of Ohio; IVA MAE DUNN, is a resident and citizen of the State of Arkansas; ANNA M. EASON, is a resident and citizen of the State of Arkansas; ERNEST EDWARDS, as Proposed Administrator for the Estate of EMMA LEE EDWARDS and ERNEST EDWARDS, Individually, is a resident and citizen of the State of Arkansas; JUDITH C. EIFERT, is a resident and citizen of the State of Arkansas; ARDELL EPPERSON and BETTY EPPERSON, is a resident and citizen of the State of Michigan; HENRY EPPERSON and DOROTHY EPPERSON, is a resident and citizen of the State of Arkansas; WILLIE N. FLOWERS JR. and UNICE FLOWERS, is a resident and citizen of the State of Arkansas; JAMES FLOWERS, is a resident and citizen of the State of Arkansas; AL JEWELL FORT, is a resident and citizen of the State of Arkansas; RICHARD L FOSTER and TERRY FOSTER, is a resident and citizen of the State of Arkansas; ALMA MARIE FOWLER and DAVID FOWLER, is a resident and citizen of the State of Arkansas; JAMES FRASURE SR. as the Administrator for the Estate of NORMA FRASURE and JAMES FRASURE SR., Individually, is a resident and citizen of the State of Arkansas; JOHHNY K. GARNER and DEBBIE GARNER, is a resident and citizen of the State of Arkansas; BEATRICE S. GILL and ELBERT GILL, is a resident and citizen of the State of Arkansas; DON GREEN and ROBIN GREEN, is a resident and citizen of the State of Arkansas; ANNICK Y. MALVIN as the Administratrix for the Estate of SANDRA JEAN GREEN, is a resident and citizen of the State of Arkansas; ORANGE GREENLAW, is a resident and citizen of the State of Arkansas; MAE HAMMONDS and EARL HAMMONDS, is a resident and

citizen of the State of Arkansas; MARVA HARPER as Administratrix for the Estate of MARY FRANCES HARPER, is a resident and citizen of the State of Arkansas; JOHN OBERY HART SR., is a resident and citizen of the State of Arkansas; JOHN WILLIAM HAYES and MARGARET HAYES, is a resident and citizen of the State of Arkansas; GRACIE HERRON as the Administratrix for the Estate of RUSSELL FRANKLIN HERRON, is a resident and citizen of the State of Arkansas; LARRY C. HICKS and ROSIE HICKS, is a resident and citizen of the State of Arkansas; JAMES R. HOPKINS and KIMBERLY HOPKINS, is a resident and citizen of the State of Arkansas; THOMAS GREEN as the Proposed Executor for the Estate of REBECCA BRIGANCE HUGHES, is a resident and citizen of the State of Arkansas; MILDRED MARIE JACKSON, is a resident and citizen of the State of Arkansas; BETTYE W. JEFFERIES and EMMETT JEFFRIES, is a resident and citizen of the State of Arkansas; CHARLES CURTIS JENKINS and DOROTHY JENKINS, is a resident and citizen of the State of Arkansas; JARRELL DEWAYNE JOHNSON and AUDREY JOHNSON, is a resident and citizen of the State of Arkansas; JEANETTE LEE JOHNSON and DAVID JOHNSON, is a resident and citizen of the State of Arkansas; JOE HENRY JOHNSON and MARSHEL JOHNSON, is a resident and citizen of the State of Arkansas; MARY N. JOHNSON, is a resident and citizen of the State of Arkansas; RUBY RUTH JOHNSON and JOHN JOHNSON, is a resident and citizen of the State of Arkansas; BETTY JEAN JONES and ISAAC JONES, is a resident and citizen of the State of Arkansas; HERMAN L. JONES and MARY JONES, is a resident and citizen of the State of Arkansas; IDA MARY JONES, is a resident and citizen of the State of Arkansas; JIMMY JONES, is a resident and citizen of the State of Arkansas; MERCEREE H. JONES, is a resident and citizen of the State of Arkansas; NORMA JEAN JONES and D.E. JONES, is a resident and citizen of the State of Arkansas; TOMMY JONES, is a resident and citizen of the State of Arkansas; DEBORAH ANN JOWERS, is a resident and

citizen of the State of Arkansas; CALVIN WAYNE KINNAIRD and LINDA KINNAIRD, is a resident and citizen of the State of Arkansas; PEARL KNIGHT, is a resident and citizen of the State of Arkansas; ANNIE MARIE LACY and ERVIN LACY, is a resident and citizen of the State of Arkansas; JANICE MARIE LEDBETTER, is a resident and citizen of the State of Arkansas; ELSIE MAE LEE, is a resident and citizen of the State of Arkansas; B.L. LITTLE and LOUBERTHA LITTLE, is a resident and citizen of the State of Michigan; MARY PERRY LOVELACE and BOBBY LOVELACE, is a resident and citizen of the State of Arkansas; VILETTA ELIZABETH MALLORY, is a resident and citizen of the State of Arkansas; CHYANNE GREEN MARBLE, is a resident and citizen of the State of Michigan; BENJAMIN MARTIN and ERNESTINE MARTIN, is a resident and citizen of the State of Michigan; EARNESTINE B. MARTIN and LARRY MARTIN, is a resident and citizen of the State of Arkansas; WILLARD A. SPARKS JR. and NINA SPARKS, is a resident and citizen of the State of Michigan; LARRY ROGER SPARKS, is a resident and citizen of the State of Michigan; THOMAS J. STATON, is a resident and citizen of the State of Arkansas; JAMES G. STEPHENSON and GUSSIE STEPHENSON, is a resident and citizen of the State of Arkansas; JAMES ALLEN STURMAN, is a resident and citizen of the State of Arkansas; MARYLYN R. SUMMONS, is a resident and citizen of the State of Arkansas; OLLIE ELWANDA TAYLOR, is a resident and citizen of the State of Arkansas; RICHARD LEE THOMPSON and JANE THOMPSON, is a resident and citizen of the State of Arkansas; SAMMY DON TILLEY, is a resident and citizen of the State of Arkansas; DOROTHY L. TODD and DAVID TODD, is a resident and citizen of the State of Arkansas; LEE ROY TODD and NELSCLINE TODD, is a resident and citizen of the State of Arkansas; MELVIN L. TURNER and JODY TURNER, is a resident and citizen of the State of Arkansas; PATSY RUTH WALKER, is a resident and citizen of the State of Arkansas; DIANNE WALLS, is a resident and citizen of the State of Arkansas;

CELESTIAL B. WEST, is a resident and citizen of the State of Arkansas; LUCILLE F. WILLIAM and CLESTER WILLIAMS, is a resident and citizen of the State of Arkansas; EARNESTINE WILLIAMS, is a resident and citizen of the State of Arkansas; ROSIE LEE WILLIAMS and TOMMY WILLIAMS, is a resident and citizen of the State of Arkansas; MARICE WILSON as the Administratrix for the Estate of BILLY RAY WILSON and MARICE WILSON, Individually, is a resident and citizen of the State of Arkansas; WALTER P. WIMMER and MARIE WIMMER, is a resident and citizen of the State of Arkansas; FRANCES YARBROUGH and MALACHI YARBROUGH, is a resident and citizen of the State of Arkansas, and Defendants are of diverse citizenship in that Defendants are incorporated in and have their principal place of business in states other than those in which plaintiffs are citizens as stated in the NYAL Weitz & Luxenberg, P.C. Federal Standard Asbestos Complaint for Personal Injury No. 1 and NYAL Weitz & Luxenberg, P.C. Federal Standard Asbestos Complaint for Wrongful Death No. 1.

2. The amount in controversy exceeds 75,000.00 for each Plaintiff;

3. Defendant AMCHEM PRODUCTS, INC., n/k/a RHONE POULENC AG COMPANY, n/k/a BAYER CROPSCIENCE INC, was and still is a duly organized domestic corporation doing business in the State of New York.

4. Defendant AMCHEM PRODUCTS, INC., n/k/a RHONE POULENC AG COMPANY, n/k/a BAYER CROPSCIENCE INC, was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

5. Defendant AMERICAN OPTICAL CORPORATION, was and still is a duly organized domestic corporation doing business in the State of New York.

6. Defendant AMERICAN OPTICAL CORPORATION, was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

7. Defendant CERTAIN TEED CORPORATION, was and still is a duly organized domestic corporation doing business in the State of New York.

8. Defendant CERTAIN TEED CORPORATION, was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

9. Defendant CRANE CO., was and still is a duly organized domestic corporation doing business in the State of New York.

10. Defendant CRANE CO., was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

11. Defendant DB RILEY, INC., was and still is a duly organized domestic corporation doing business in the State of New York.

12. Defendant DB RILEY, INC., was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

13. Defendant I.U. NORTH AMERICA, INC., was and still is a duly organized domestic corporation doing business in the State of New York.

14. Defendant I.U. NORTH AMERICA, INC., was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

15. Defendant LOCKHEED MARTIN CORP., as successor in interest to MARTIN MARIETTA CORP., as successor in interest to AMERICAN MARIETTA CORP., was and still is a duly organized domestic corporation doing business in the State of New York.

16. Defendant LOCKHEED MARTIN CORP., as successor in interest to MARTIN MARIETTA CORP., as successor in interest to AMERICAN MARIETTA CORP., was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

17. Defendant NATIONAL SERVICE INDUSTRIES, INC., was and still is a duly organized domestic corporation doing business in the State of New York.

18. Defendant NATIONAL SERVICE INDUSTRIES, INC., was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

19. Defendant NOSROC CORP., was and still is a duly organized domestic corporation doing business in the State of New York.

20. Defendant NOSROC CORP., was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

21. Defendant PATTERSON PUMP COMPANY, was and still is a duly organized domestic corporation doing business in the State of New York.

22. Defendant PATTERSON PUMP COMPANY, was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

23. Defendant REYNOLDS METALS COMPANY, as successor in interest to ATLANTIC ASBESTOS CORP., was and still is a duly organized domestic corporation doing business in the State of New York.

24. Defendant REYNOLDS METALS COMPANY, as successor in interest to ATLANTIC ASBESTOS CORP., was and still is a duly organized foreign corporation doing business and/or transacting business in the State of New York and/or should have expected its acts to have consequences within the State of New York.

AS AND FOR A TENTH CAUSE OF ACTION

25. Plaintiff(s) repeats and reiterates the prior allegations of the NYAL Weitz & Luxenberg, P.C. Federal Standard Asbestos Complaint for Personal Injury No. 1 and NYAL Weitz & Luxenberg, P.C. Federal Standard Asbestos Complaint for Wrongful Death No. 1 as if alleged more fully below:

26. Defendant(s) MINNESOTA MINING & MANUFACTURING COMPANY and AMERICAN OPTICAL CORPORATION were engaged in the business of manufacturing and selling respiratory devices commonly known as “dust masks”.

27. Defendant(s) MINNESOTA MINING & MANUFACTURING COMPANY and AMERICAN OPTICAL CORPORATION knew or in the exercise of reasonable diligence should have ascertained that its “dust masks” would be used without inspection for defects, and by placing same on the market, represented that these masks would safely preclude the inhalation of asbestos fibers.

28. The dust masks manufactured, distributed and sold by the Defendant(s) MINNESOTA MINING & MANUFACTURING COMPANY and AMERICAN OPTICAL CORPORATION were dangerous and defective, in that the same failed to protect against the inhalation of asbestos dust, as had been represented.

29. The dust masks as designed, manufactured, distributed and marketed by the Defendant(s) MINNESOTA MINING & MANUFACTURING COMPANY and AMERICAN OPTICAL CORPORATION were placed into the stream of commerce in a defective, unsafe and inherently dangerous condition, at the time they left the hands of the Defendants, and were expected to, and did, reach the intended users including this Plaintiff(s) without substantial change in the condition in which these masks were originally manufactured and sold.

30. The dust masks manufactured, sold and distributed by the Defendant(s) MINNESOTA MINING & MANUFACTURING COMPANY and AMERICAN OPTICAL CORPORATION did not contain adequate warnings, instructions for use or safety precautions to persons who reasonably and foreseeably came into contact with and otherwise used said masks.

31. The Plaintiff(s) was unaware of the defects in the Defendants' dust masks which defects rendered these masks ineffective as protection against the inhalation of asbestos dust when utilized in the manner intended.

32. As a direct and proximate result of the sale by the Defendant(s) MINNESOTA MINING & MANUFACTURING COMPANY and AMERICAN OPTICAL CORPORATION to the Plaintiff's employers and others of said defective and unreasonably dangerous dust masks, the Plaintiff(s) sustained serious and permanent asbestos related injuries and suffered a loss of enjoyment of his life.

33. By reason of the foregoing, Plaintiff(s) has been damaged as against the Defendant(s) MINNESOTA MINING & MANUFACTURING COMPANY and AMERICAN OPTICAL CORPORATION in the sum of Ten Million Dollars (\$10,000,000.00) in compensatory damages and Ten Million Dollars (\$10,000,000.00) in punitive damages.

34. Plaintiff(s), DON EDWARD AYERS and GLENDA AYERS, et. al., repeats and realleges NYAL Weitz & Luxenberg, P.C. Federal Standard Asbestos Complaint for Personal Injury No. 1 and NYAL Weitz & Luxenberg, P.C. Federal Standard Asbestos Complaint for Wrongful Death No. 1 as if fully incorporated herein, except as to the extent it may be inconsistent with the allegations herein.

35. Plaintiff(s) demand a trial by jury.

Dated, July 21, 2004
New York, New York

Respectfully submitted,

WEITZ & LUXENBERG, P.C.
Attorneys for Plaintiff(s)

By: Lisa Busch
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New York, New York 10038
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DEFENDANTS' RIDER

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Attorneys for Defendant:

**A.C. and S., INC. (ARMSTRONG CONTRACTING &
SUPPLY)
AMERICAN OPTICAL CORPORATION
UNITED STATES MINERAL PRODUCTS COMPANY**

Unknown at Present Time
Attorneys for Defendant:

**A.P. GREEN INDUSTRIES, INC. f/k/a A.P. GREEN REFRACTORIES
COMPANY**

Julie Evans Esq.
WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER, LLP
150 East 42nd Street
New York, NY 10017
Attorneys for Defendant:

**A.P. GREEN SERVICES, INC., successor to BIGELOW, f/d/b LIPTAK
A.W. CHESTERTON COMPANY**

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Attorneys for Defendant:

**AMCHEM PRODUCTS, INC., n/k/a RHONE POULENC AG COMPANY,
n/k/a BAYER CROPSCIENCE INC
CERTAIN TEED CORPORATION
DANA CORPORATION
I.U. NORTH AMERICA, INC.
NATIONAL SERVICE INDUSTRIES, INC.
NOSROC CORP.
T&N PLC
UNION CARBIDE CORPORATION
UNITED STATES GYPSUM COMPANY**

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Attorneys for Defendant:
AMERICAN STANDARD, INC.

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Attorneys for Defendant:
**ANCHOR PACKING COMPANY
GARLOCK SEALING TECHNOLOGIES LLC,
f/k/a GARLOCK INC.**

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Attorneys for Defendant:
**BMCE INC., f/k/a UNITED CENTRIFUGAL PUMP
BURNHAM, LLC as successor to BURNHAM CORPORATION
LOCKHEED MARTIN CORP.,
as successor in interest to MARTIN
MARIETTA CORP.,
as successor in interest to AMERICAN MARIETTA
CORP.
PEERLESS HEATER CO., INC.
PROKO INDUSTRIES, INC.
THE OKONITE COMPANY, INC.**

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Attorneys for Defendant:

CLEAVER BROOKS COMPANY, INC.
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MORSE DIESEL, INC.
VIACOM INC.,
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U.S. RUBBER COMPANY (UNIROYAL)

Docket No.:01CIV3905

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

=====

DON EDWARD AYERS and GLENDA AYERS, et. al.,

Plaintiff(s),

-against-

A.C. and S., INC. (ARMSTRONG CONTRACTING &
SUPPLY), et. al.,

Defendants.

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SECOND AMENDED SUMMONS and SECOND AMENDED VERIFIED COMPLAINT

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To
Attorney(s) for

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Service of a copy of the within
is hereby admitted.

Dated,
July 21, 2004

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Attorney(s) for

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